

Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Emission statements, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Oxides of nitrogen, SIP requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 6, 1994.

**William B. Hathaway,**

*Acting Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

#### Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(65) to read as follows:

##### § 52.970 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(65) Revisions to the Louisiana Department of Environmental Quality Regulation Title 33, Part III, Chapter 9, Section 919, (February 2, 1993), and a technical correction (October 20, 1994). These revisions are for the purpose of implementing an emission statement program for stationary sources within the ozone nonattainment areas.

(i) Incorporation by reference.

(A) Revisions to LAC, title 33, Part III, Chapter 9, *General Regulations on Control of Emissions and Emissions Standards*, Section 919, *Emission Inventory*, adopted in the *Louisiana Register*, Vol. 19, No. 2, 184–186, February 20, 1993. All subsections except B.2.a. and B.2.d.

(B) Revisions to LAC, title 33, Part III, Chapter 9, *General Regulations on Control of Emissions and Emissions standards*, Section 919, *Emission Inventory*, adopted in the *Louisiana Register*, Vol 20, No. 10, 1102, October 20, 1994. Subsections B.2.a. and B.2.d.

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#### 40 CFR Part 52

[MA–26–1–6173a; A–1–FRL–5123–5]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; RACT for Nichols and Stone Company

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires reasonably available control technology (RACT) for Nichols & Stone Company in Gardner, MA. The intended effect of this action is to approve a source specific RACT determination made by Massachusetts in accordance with the commitments specified in its Ozone Attainment Plan approved by EPA on November 9, 1983. This action is being taken in accordance with section 110 of the Clean Air Act.

**DATES:** This final rule is effective March 7, 1995, unless notice is received by February 6, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Jeanne Cosgrove, (617) 565–3246.

**SUPPLEMENTARY INFORMATION:** On July 19, 1993 and October 27, 1993, the Massachusetts Department of Environmental Protection (DEP) submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a final plan approval issued to Nichols & Stone Company, effective June 30, 1993. The plan approval establishes and requires reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from Nichols & Stone in Gardner, Massachusetts.

#### Summary of SIP Revision

The DEP issued this plan approval pursuant to the requirements found in 310 CMR 7.18(17), which was approved by EPA on November 9, 1983 (48 FR 51480) as part of Massachusetts' Ozone Attainment Plan. Massachusetts Regulation 310 CMR 7.18(17), "Reasonably Available Control Technology (RACT)," requires the DEP to determine and impose RACT on otherwise unregulated stationary sources of VOC with the potential to emit greater than or equal to 100 tons per year.

For the reasons outlined in the Technical Support Document prepared for this revision, EPA believes that the limits the DEP has established represent RACT for Nichols & Stone.

The plan approval, dated June 30, 1993, requires Nichols & Stone to meet a 12 month rolling average VOC limit of 98 tons for the entire facility. To ensure short term compliance and enforceability, the MA DEP has set the following emission limitations on the VOC content in the coatings as applied to the wood furniture:

Description of coating	Lbs. VOC/ gallon of coating (less water) as applied
Stains .....	6.63
Sealers .....	4.91
Black Undercoat .....	6.29
Lacquer Sheen topcoat (to be used specifically for the college chair business) .....	5.6
Topcoats (except for lacquer sheens) .....	4.7
Toner .....	6.67
colored lacquer .....	6.11

Other RACT conditions include high volume low pressure (HVLP) technology, good housekeeping practices and recordkeeping/monitoring requirements. Nichols & Stone is required to minimize air emissions by using HVLP technology for all finishing operations, except for staining of chairs which use flow coaters, decorative hand painting and small touch up/repair work. Small touch up/repair work using air-assisted spray guns must not exceed 5 gallons of coating per day for the entire facility. All VOC formulations must be stored in covered containers. Spray guns must be enclosed during cleaning or cleaned without solvents. To evaluate compliance, the plan approval requires Nichols & Stone to maintain daily records of the identity, quantity and VOC content of each coating as applied.

EPA is publishing this action without prior proposal because the Agency

views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on March 7, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 7, 1995.

**FINAL ACTION:** EPA is approving the conditions described above as RACT for Nichols & Stone Company.

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted

a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. § 7410 (a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

**Note:** Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 18, 1994.

**John DeVillars,**

*Regional Administrator, Region I.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

#### Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(100) to read as follows:

##### § 52.1120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(100) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 19, 1993.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated July 19, 1993 submitting a revision to the Massachusetts State Implementation Plan.

(B) Plan approval no. C-P-93-011, effective June 30, 1993, which contains emissions standards, operating conditions, and recordkeeping requirements applicable to Nichols & Stone Company in Gardner, Massachusetts.

(ii) Additional materials.

(A) Letter dated October 27, 1993 from Massachusetts Department of Environmental Protection submitting certification of a public hearing.

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3. In § 52.1167 Table 52.1167 is amended by adding a new entry to existing state citations for 310 CMR 7.18(17) to read as follows:

##### § 52.1167 EPA-approved Massachusetts State regulations.

\* \* \* \* \*

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
* 310 CMR 7.18(17)	* RACT .....	* July 19, 1993 ..	* January 6, 1995.	* [Insert FR citation from published date].	* 100	* RACT Approval for Nichols & Stone Co.

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS—Continued

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120 (c)	Comments/unapproved sections
*	*	*	*	*	*	*
[FR Doc. 95-292 Filed 1-5-95; 8:45 am] BILLING CODE 6560-50-P						
<b>40 CFR Part 52</b>						
[MD3-2-5624a, MD10-2-6169a, MD24-2-5968a, MD25-1-6146a, MD28-1-6147a; FRL-5123-3]						
<b>Approval and Promulgation of Air Quality Implementation Plans; Maryland; VOC RACT Catch-ups and Stage I Vapor Recovery</b>						
<b>AGENCY:</b> Environmental Protection Agency (EPA).						
<b>ACTION:</b> Direct final rule.						
<b>SUMMARY:</b> EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish statewide applicability for Maryland's category-specific volatile organic compound (VOC) reasonably available control technology (RACT) regulations, lower the applicability threshold for VOC RACT regulations, and correct deficiencies in Maryland's Stage I Vapor Recovery rule. These revisions were submitted to comply with the RACT "Catch-up" and "Fix-up" provisions of the Clean Air Act (the Act). The intended effect of this action is to approve revisions to Maryland's category-specific VOC RACT regulations, including Stage I. This action is being taken in accordance with the SIP submittal and revision provisions of the Act.	19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.					documents (CTGs), establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources.
<b>DATES:</b> This final rule is effective on March 7, 1995 unless notice is received on or before February 6, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the <b>Federal Register</b> .	<b>FOR FURTHER INFORMATION CONTACT:</b> Maria A. Pino, (215) 597-9337.					EPA determined that an area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under pre-amended section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major non-CTG sources (i.e. sources having potential VOC emissions of 100 tons per year (TPY) or more).
<b>ADDRESSES:</b> Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania	<b>SUPPLEMENTARY INFORMATION:</b> On June 8, 1993 and July 19, 1993, the State of Maryland submitted revisions to its ozone SIP to establish statewide applicability for Maryland's VOC RACT regulations, lower the applicability threshold for VOC RACT regulations, and correct deficiencies in Maryland's Stage I Vapor Recovery (Stage I) regulation. These revisions were submitted to comply with the RACT "Catch-up" and "Fix-up" provisions of the Act. Previously, on April 5, 1991, April 2, 1992, and January 18, 1993, Maryland submitted SIP revisions to comply with the RACT Fix-up requirements. These submittals also contain revisions to Maryland's Stage I regulation.					Under the pre-amended Act, EPA designated the Baltimore, Washington DC, and Philadelphia areas as nonattainment. Under the pre-amended Act, the Baltimore area included the City of Baltimore and Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties. Under the pre-amended Act, the Washington DC area included Montgomery and Prince George's Counties in Maryland, as well as the District of Columbia and a portion of Northern Virginia. Under the pre-amended Act, the Philadelphia nonattainment area did not include any areas in the State of Maryland.
	This rulemaking action addresses revisions to Maryland's Stage I regulation (COMAR 26.11.13.04) submitted by Maryland on April 5, 1991, April 2, 1992, January 18, 1993, June 8, 1993 and July 19, 1993. This rulemaking action also addresses revisions to Maryland's VOC RACT regulations, COMAR 26.11.11.02, 26.11.11.04, 26.11.13.01, 26.11.13.02, 26.11.13.07, 26.11.19.01, 26.11.19.02A, F and H, and 26.11.19.10, submitted on June 8, 1993 and July 19, 1993.					The Baltimore and Washington DC nonattainment areas each established a pre-enactment (i.e. prior to enactment of the 1990 Amendments) attainment date of December 31, 1987 and, therefore, were required to adopt RACT for Group I, II, and III CTG categories as well as non-CTG VOC sources with the potential to emit 100 TPY or more. However, these areas did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of Maryland that portions of Maryland's SIP were
	Maryland's June 8, 1993 and July 19, 1993 submittals also contain revisions to Maryland's generic VOC RACT and minor source regulations, COMAR 26.11.19.02G and 26.11.06.06 A and B, respectively. Revisions to COMAR 26.11.19.02G and 26.11.06.06 A and B are the subject of a separate rulemaking action.					
	<b>I. Background</b>					
	<b>RACT Fix-up Requirement</b>					
	Under the pre-amended Act (i.e the Act prior to the 1990 Amendments), ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guideline					